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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/180,657	11/12/1998	PETER J MEIKLE	2325-1-002	7039

7590 11/04/2002

JOE LIEBESCHUETZ  
TOWNSEND AND TOWNSEND AND CREW LLP  
TWO EMBARCADERO CENTER,  
8TH FLOOR  
SAN FRANCISCO, CA 941113834

EXAMINER

NOLAN, PATRICK J

ART UNIT	PAPER NUMBER
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1644

DATE MAILED: 11/04/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/180,657**

Applicant(s)  
**Miekle et al.**

Examiner  
**Patrick J. Nolan**

Art Unit  
**1644**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Aug 21, 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 22-52, 55, 58-66, 68-74, and 93 is/are pending in the application.
- 4a) Of the above, claim(s) 22-51 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 93 is/are allowed.
- 6) ☒ Claim(s) 52, 55, 58, 59, 61, 63, 66, and 68-73 is/are rejected.
- 7) ☒ Claim(s) 60, 62, 64, 65, and 74 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 22 6) ☐ Other:

**Part III DETAILED ACTION**

1. Claims 22-52, 55, 58-66, 68-74 and 93 are pending.  
Claims 22-51 stand withdrawn to a non-elected invention for reasons set forth in Paper No.5.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8-21-02 has been entered.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 52, 55, 58, 59, 61, 63, 66, 68-73 are rejected under 35 U.S.C. § 102(b) as being anticipated by Sandoval et al. (AP on the IDS).

Sandoval teaches increased amounts of LAMP-1 in I cells with monoclonal antibodies (page 163 in particular), wherein said antibodies are detected by secondary antibodies labeled with fluorescein.

The prior art teachings anticipate the claimed invention.

4. Applicant is notified that claims 60, 62, 64-65, 74 and 93 are free of the prior art, and that claims 60, 62, 64-65 and 74 are objected to as being dependent upon rejected claims.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Nolan whose telephone number is (703) 305-1987. The examiner can normally be reached on Monday through Thursday from 8:00 am to 5:30 pm.
6. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Christina Chan, can be reached at (703) 305-3973. The FAX number for our group, 1644, is (703) 305-7401. Any inquiry of a general nature relating to the status of this

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application or proceeding should be directed to the Group receptionist, whose telephone number is (703) 308-0196.

*Patrick J. Nolan*

Patrick J. Nolan, Ph.D.  
Patent Examiner, Group 1640  
November 3, 2002